

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426



JUN 03 2019

Re: FOIA No. FY19-73
Determination Letter

VIA E-MAIL AND REGULAR MAIL

Mr. Austin Evers
American Oversight
1030 15th Street NW
Suite B255
Washington, DC 20005
foia@americanoversight.org

Dear Mr. Evers:

This is a response to your correspondence received May 9, 2019, in which you requested information pursuant to the Freedom of Information Act (FOIA),¹ and the Federal Energy Regulatory Commission's (Commission) FOIA regulations, 18 C.F.R. § 388.108 (2019). Specifically, you requested a copy of all email communications and associated attachments sent by the Chairman or Commissioners that contain any of the following search terms between the dates of November 19, 2018 and November 30, 2018: SOCCR, SOCCR2, "Second State of the Carbon Cycle," NCA v. NCA4 and "National Climate Assessment."²

The search of the Commission's non-public files identified three documents responsive to your request. The three documents are released with portions redacted pursuant to FOIA Exemptions 5.³

FOIA Exemption 5 incorporates various privileges, including the deliberative process privilege, which is at issue here. Courts have consistently held that three policy

¹ 5 U.S.C. § 552, *as amended by* the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).

² On May 31, 2019, you agreed to narrow your request to exclude newsletters (e.g., wherein one of the Commissioners or the Chairman merely receives a collection of news stories via a mass distribution list or because they were forwarded to them) and communications following the distribution of a newsletter wherein the only reference to the subject matter of your request is contained in the newsletter and not the communications that follow (e.g., someone forwards a Commissioner a newsletter, including a story that mentions SOCCR, but the communications that follow only reference an unrelated story also contained in the newsletter).

³ 5 U.S.C. § 552(b)(5).

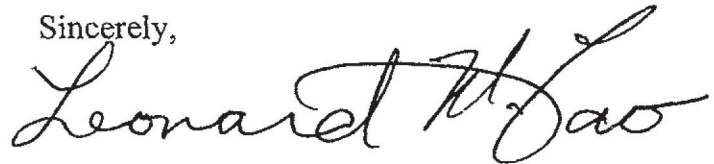
purposes constitute the basis for the FOIA Exemption 5 deliberative process privilege: (1) to encourage open, frank discussions on matters of proposed policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. *See Russell v. Dep't of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982); *see also EPA v. Mink*, 410 U.S. 73, 87 (1972) (recognizing that "[i]t would be impossible to have any frank discussions of legal or policy matters in writing if all such writings were to be subjected to public scrutiny.").

The three documents include draft versions of an article for publication and staff comments. This information has been redacted in accordance with FOIA Exemption 5.

As provided by the FOIA and 18 C.F.R. §388.110(a)(1) of the Commission's regulations, any appeal from this determination must be filed within 90 days of the date of this letter. The appeal must be in writing, addressed to James P. Danly, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal." Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

You have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS by mail at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at (301) 837-1996; facsimile at (301) 837-0348; or toll-free at 1-877-684-6448.

Sincerely,



Leonard M. Tao
Director
Office of External Affairs

Enclosures (3)

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

DOCUMENT 1

From: [Rich Glick](#)
To: [Pamela Quinlan](#); [Erica Siegmund Hough](#); [Elizabeth Salerno](#); [Matthew Christiansen](#); [Benjamin Williams](#)
Subject: Very Rough Draft of Article
Date: Sunday, November 25, 2018 11:45:00 AM
Attachments: [Electroindustry Magazine Article.docx](#)

Here is a very rough first draft of the article. I'd appreciate your input.

(b) (5)

Thanks,

Rich

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

Electroindustry Magazine Article

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [Rich Glick](#)
To: [Matthew Christiansen](#); [Pamela Quinlan](#); [Erica Siegmund Hough](#); [Elizabeth Salerno](#); [Benjamin Williams](#)
Subject: RE: Very Rough Draft of Article
Date: Tuesday, November 27, 2018 6:33:00 PM
Attachments: [Electroindustry Magazine Article.docx](#)

Thanks for everyone's valuable input. I've made a few revisions and cut the article down to 775 words.

Please let me know if anything stands out before we send the draft the magazine editor.

Thanks again.

Rich

From: Matthew Christiansen
Sent: Monday, November 26, 2018 3:52 PM
To: Rich Glick <Rich.Glick@ferc.gov>; Pamela Quinlan <Pamela.Quinlan@ferc.gov>; Erica Siegmund Hough <Erica.Hough@ferc.gov>; Elizabeth Salerno <Elizabeth.Salerno@ferc.gov>; Benjamin Williams <Benjamin.Williams2@ferc.gov>
Subject: RE: Very Rough Draft of Article

Our first round of changes is now in the document. Link [\(b\)](#)

Matthew Christiansen
 Legal Advisor to Commissioner Richard Glick
 Federal Energy Regulatory Commission
 202.502.6599

From: Matthew Christiansen
Sent: Monday, November 26, 2018 9:22 AM
To: Rich Glick <Rich.Glick@ferc.gov>; Pamela Quinlan <Pamela.Quinlan@ferc.gov>; Erica Siegmund Hough <Erica.Hough@ferc.gov>; Elizabeth Salerno <Elizabeth.Salerno@ferc.gov>; Benjamin Williams <Benjamin.Williams2@ferc.gov>
Subject: RE: Very Rough Draft of Article

I put this in the WIP folder on Sharepoint. Liz and I are starting on it now.

Matthew Christiansen
 Legal Advisor to Commissioner Richard Glick
 Federal Energy Regulatory Commission
 202.502.6599

From: Rich Glick
Sent: Sunday, November 25, 2018 11:45 AM
To: Pamela Quinlan <Pamela.Quinlan@ferc.gov>; Erica Siegmund Hough <Erica.Hough@ferc.gov>;

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

Elizabeth Salerno <Elizabeth.Salerno@ferc.gov>; Matthew Christiansen
<Matthew.Christiansen@ferc.gov>; Benjamin Williams <Benjamin.Williams2@ferc.gov>
Subject: Very Rough Draft of Article

Here is a very rough first draft of the article. I'd appreciate your input.

(b) (5)

Thanks,

Rich

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

Electroindustry Magazine Article

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

[REDACTED]

[REDACTED]

[REDACTED]

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

DOCUMENT 3

From: [Rich Glick](#)
To: [Benjamin Williams](#)
Subject: Final Version of Draft for ElectroIndustry Magazine.
Date: Wednesday, November 28, 2018 6:46:00 PM
Attachments: [Electroindustry Magazine Article.docx](#)

Thanks,

Rich

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

Electroindustry Magazine Article

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

REDACTIONS WERE MADE PURSUANT TO EXEMPTION 5

[REDACTED]

[REDACTED]

[REDACTED]